

1 **SAO**

2 BRADLEY S. MAINOR, ESQ.

3 Nevada Bar No. 7434

4 JOSEPH J. WIRTH, ESQ.

5 Nevada Bar No. 10280

6 ASH MARIE BLACKBURN, ESQ.

7 Nevada Bar No. 14712

8 **MAINOR WIRTH, LLP**

9 6018 S. Ft. Apache Rd., Ste. 150

10 Las Vegas, Nevada 89148

11 Phone: (702) 464-5000

12 Fax: (702) 463-4440

13 ash@mwinjury.com

14 *Counsel for Plaintiffs*

15 **UNITED STATES DISTRICT COURT**

16 **DISTRICT OF NEVADA**

17 SARAH ELIZABETH ALEXANDER, an
18 individual; ROBERT ROY ALEXANDER,
19 an individual,

20 Plaintiffs,

21 vs.

22 COSTCO WHOLESALE CORPORATION
23 dba Costco, a Foreign Corporation; VALLEY
24 CONTAX INC., DOES I-X; and ROE
25 BUSINESS ENTITIES XI-XX, inclusive,

26 Defendants.

27 Case No.: 2:21-cv-00509-APG-VCF

28 **STIPULATION AND ORDER FOR STAY
OF DISCOVERY PENDING RULING OF
PLAINTIFFS' MOTIONS FOR
SPOILATION OF EVIDENCE**

(FIRST REQUEST)

29 It is hereby Stipulated between Plaintiffs Sarah Elizabeth Alexander and Robert Roy
30 Alexander, by and through counsel of record, Ash Marie Blackburn, Esq., of Mainor Wirth, LLP,
31 Defendant Valley Contax, Inc., by and through counsel of record, Alan W. Westbrook, Esq. of
32 Perry & Westbrook, P.C., and Defendant Costco Wholesale Corporation, by through counsel of
33 record, Edgar Carranza, Esq., of Messner Reeves, LLP, that discovery in this action be stayed
34 pending resolution of Plaintiffs' Motions for Spoliation of Evidence against each of the
35 Defendants (ECF Nos. 31 and 32).

1 **I. PROCEDURAL HISTORY.**

2 On October 28, 2020, Plaintiffs filed their Complaint and Demand for Jury Trial in the
3 Eighth Judicial District Court, District of Nevada.

4 On March 29, 2021, this matter was removed from the Eighth Judicial District Court to the
5 United States District Court, District of Nevada. *See* Notice of Removal and Errata to Notice of
6 Removal, (ECF No. 1 and ECF No.4).

7 On April 13, 2021, Defendant Costco filed its Statement of Removal, (ECF No. 7).

8 On April 28, 2021 the parties Joint Discovery Plan and Scheduling Order was granted
9 (ECF. No. 10).

10 On December 15, 2021 the Parties First Stipulation and Order to Extend Discovery Plan
11 and Scheduling Order was Granted (ECF No. 13).

12 On April 11, 2022 the Parties Second Stipulation and Order to Extend Discovery Plan and
13 Scheduling Order was Granted (ECF No. 15).

14 On September 19, 2022 the Parties Third Stipulation and Order to Extend Discovery Plan
15 and Scheduling Order was Granted (ECF No. 22).

16 On December 7, 2022 the Parties Fourth Stipulation and Order to Extend Discovery Plan
17 and Scheduling Order was Granted (ECF No. 28).

18 On April 4, 2023 the Parties Fifth Stipulation and Order to Extend Discovery Plan and
19 Scheduling Order was Granted (ECF No. 30).

20 On July 19, 2023 Plaintiffs filed their Motion For Spoliation of Evidence Against
21 Defendant Costco Wholesale Corporation (ECF No. 31).

22 On July 19, 2023 Plaintiffs filed their Motion For Spoliation of Evidence Against
23 Defendant Valley Contax, Inc. (ECF No. 32).

24 Defendant Costo Wholesale Corporation's Response to Plaintiff's Motion for Spoliation
25 of Evidence is currently due on August 2, 2023.

1 Defendant Valley Contax, Inc.'s Response to Plaintiff's Motion for Spoliation of
 2 Evidence is currently due on August 2, 2023.
 3

4 **II. LEGAL ARGUMENT**

5 The district court has "wide discretion in controlling discovery." *Little v. Seattle*, 863
 6 F.2d 681, 685 (9th Cir. 1988); see also Fed. R. Civ. P. 26(d)(1) (describing the court's ability to
 7 limit the scope of discovery). Ultimately, when deciding whether to grant a stay of discovery, a
 8 court is guided by the objectives of Federal Rule of Civil Procedure 1 that ensures a "just, speedy,
 9 and inexpensive determination of every action." *Schrader v. Wynn Las Vegas, LLC*, 2021 WL
 10 4810324, *3 (D. Nev. Oct. 14, 2021) (quoting Fed. R. Civ. P. 1); see also *Tradebay, LLC v. eBay*,
 11 Inc., 278 F.R.D. 597, 601 (D. Nev. 2011) (explaining that courts evaluating the propriety of a stay
 12 have cautioned against the use of resources that may be rendered unnecessary, noting the simple,
 13 but accurate principle: "Discovery is expensive").

14 Plaintiffs Motions for Spoliation of Evidence against each Defendant are pending before
 15 the Court and are seeking the ultimate sanction of striking each Defendant's answer. *See* ECF
 16 Nos. 31 and 32. Additional lesser sanctions are also outlined and requested in the Motions if this
 17 Court does not find grounds to strike. *Id.* Responsive pleadings from each Defendant are currently
 18 due August 2, 2023. The Parties have agreed that discovery should be stayed until the Court has
 19 decided the Motions for Spoliation of Evidence. Since the Court's ruling(s) on the Motions for
 20 Spoliation of Evidence could potentially result in dismissal of parts of Defendants' case, it would
 21 be an inefficient use of resources to engage in additional discovery prior to the Court's ruling.
 22 *See Sibley v. U.S. Sup. Ct.*, 786 F. Supp. 2d 338, 346 (D.D.C. 2011) ("[I]t is well settled that
 23 discovery is generally considered inappropriate while a motion that would be thoroughly
 24 dispositive of the claims in the Complaint is pending.").

25 ///

26 ///

27 ///

1 **III. CONCLUSION**

2 For the foregoing reasons, the Parties respectfully request the Court stay all discovery until a
3 decision is issued on Plaintiffs' Motions for Spoliation of Evidence.
4

5 Dated this 25th day of July, 2023.

6 **PERRY & WESTBROOK**

7 /s/ Alan Westbrook

8 ALAN W. WESTBROOK, ESQ.
9 Nevada Bar No. 6167
10 11500 S. Eastern Avenue, Ste. 140
11 Henderson, NV 89052
12 Attorney for Defendant Valley Contax Inc.

5 Dated this 25th day of July, 2023.

6 **MAINOR WIRTH, LLP**

7 /s/ Ash Marie Blackburn

8 ASH MARIE BLACKBURN, ESQ.
9 Nevada Bar No. 14712
10 6018 S. Fort Apache Road, Ste. 150
11 Las Vegas, NV 89148
12 Attorney for Plaintiffs, Sarah Elizabeth Alexander
13 and Robert Roy Alexander

12 Dated this 25th day of July, 2023.

13 **MESSNER REEVES, LLP**

14 /s/ Edgar Carranza

15 EDGAR CARRANZA, ESQ.
16 Nevada Bar No. 5902
17 8945 W. Russell Road, Suite 300
18 Las Vegas, NV 89148
19 Attorney for Defendants, Costco Wholesale

19 **IT IS SO ORDERED.**

20 DATED this 27th day of July, 2023.



21 UNITED STATES MAGISTRATE JUDGE